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NO. D0100423010

COMMISSION FOR LAWYER  
DISCIPLINE

v.

ROBERT H. HOLMES, II

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§  
§  
§  
§  
§

EVIDENTIARY PANEL

OF DISTRICT 06A

GRIEVANCE COMMITTEE

JUDGMENT OF DISBARMENT

On April 6, 2006, came on to be heard the above-styled matter. The Commission for Lawyer Discipline appeared by and through its attorney, Susan Morgan Farris, Senior Trial Attorney. Respondent, ROBERT H. HOLMES, II, State Bar Number 00789097 ("Respondent"), appeared with counsel and announced ready. The Complainant, CRISTINA ELENA RIUDOR, appeared.

The Chief Disciplinary Counsel found just cause to believe that Respondent committed professional misconduct. This matter was then brought before an evidentiary panel of the District 06A Grievance Committee, pursuant to Rule 2.15 of the Texas Rules of Disciplinary Procedure.

JURISDICTION AND VENUE

The Evidentiary Panel finds that Respondent is an attorney licensed to practice law in Texas and further finds that Respondent failed to file an election to have this complaint heard in a district court. Therefore, the Evidentiary Panel finds it has jurisdiction over the parties and subject matter of this action, and that venue is proper before the Evidentiary Panel of the District 06A Grievance Committee, Dallas, Dallas County, Texas.

### PROFESSIONAL MISCONDUCT

The Evidentiary Panel finds that the acts and conduct of Respondent as set forth hereinafter constitute professional misconduct.

#### Findings of Fact and Conclusions of Law

In February 2004 Cristina Elena Riudor ("Riudor") employed Respondent to handle estate matters related to her brother's death. An insurance carrier tendered a check in the amount of \$61,000, dated March 5, 2004, to Riudor, as beneficiary of a life insurance policy on her brother's life. Respondent deposited the check in his trust account, agreeing to turn the funds over to Riudor. On or about May 17, 2004, Respondent gave Riudor \$1,500 cash and two checks, for \$7,000 and \$45,000, as her portion of the insurance proceeds. The check in the amount of \$7,000 was not drawn on a trust account. Both checks were returned by Respondent's bank due to insufficient funds.

By letter dated January 6, 2005, Respondent was directed to provide certain information to the grievance committee by January 20, 2005. Respondent failed to provide the information and did not assert any grounds for such failure.

The foregoing findings of fact support a conclusion that Respondent violated Rules 1.14(a), 1.14(b), 8.01(b), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct, Article X, Section 9, State Bar Rules, effective January 1, 1990.

### DISBARMENT

The Evidentiary Panel has issued Findings of Fact and Conclusions of Law on file herein, and the Panel is of the opinion that Respondent is guilty of professional misconduct as defined by Rule 1.06(V) of the Texas Rules of Disciplinary Procedure. The Evidentiary Panel, based upon said findings and conclusions, and after considering all of the factors listed in Rule

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2.18 of the Texas Rules of Disciplinary Procedure, finds that the appropriate sanction is a Judgment of Disbarment and Respondent should be disbarred, effective immediately.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Respondent is hereby disbarred from the practice of law in the State of Texas.

**IT IS FURTHER ORDERED** that Respondent is, therefore, prohibited from practicing law in Texas, holding himself out as an attorney at law, performing any legal services for others, accepting any fee directly or indirectly for legal services, appearing as counsel or in any representative capacity in any proceeding in any Texas court or before any administrative body or holding himself out to others or using his name, in any manner, in conjunction with the words "attorney at law," "attorney," "counselor at law," or "lawyer."

**IT IS FURTHER ORDERED** that Respondent shall immediately notify each of his current clients in writing of this disbarment. In addition to such notification, Respondent is **ORDERED** to return any files, papers, unearned money, and other property belonging to clients in Respondent's possession to the respective clients or to another attorney at the client's request. Respondent is **ORDERED** to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, within thirty (30) days of the date of this Judgment an affidavit stating that all current clients have been notified of Respondent's disbarment and that all files, papers, money, and other property belonging to all clients have been returned as ordered herein.

**IT IS FURTHER ORDERED** that Respondent shall, on or before thirty (30) days from the date of this Judgment, notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this Judgment, the style and cause number of the pending matter(s), and the name(s),

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address(es) and telephone number(s) of the client(s) Respondent is representing in Court. Respondent is **ORDERED** to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, within thirty (30) days of the date of this Judgment an affidavit stating that he has notified in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent has any matter pending of the terms of this Judgment, the style and cause number(s) of the pending matter(s), and the name(s), address(es) and telephone number(s) of the client(s) Respondent is representing in Court.

**IT IS FURTHER ORDERED** that Respondent immediately surrender his law license and permanent State Bar Card to the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, to be forwarded to the Supreme Court of the State of Texas.

**IT IS FURTHER ORDERED** that Respondent pay Thirty Two Thousand and no/100 Dollars (\$32,000.00) in restitution to Complainant Cristina Elena Riudor. Said restitution shall be paid via money order or cashier's check, made out to Cristina Elena Riudor, and delivered to the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, within sixty (60) days from the date of this Judgment.

**IT IS FURTHER ORDERED** that Respondent pay Three Thousand Three Hundred Sixty and 50/100 Dollars (\$3,360.50) in attorneys' fees to the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, by money order or cashier's check, within sixty (60) days from the date of this Judgment.

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**IT IS FURTHER ORDERED** that Respondent pay Four Hundred Fifty and 50/100 Dollars (\$450.00) in costs to the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, by money order or cashier's check, within sixty (60) days from the date of this Judgment.

All amounts ordered herein are due to the misconduct of Respondent and are assessed as a part of the sanction in accordance with Rule 1.06(Y) of the Texas Rules of Disciplinary Procedure and are intended by the parties to be non-dischargeable in bankruptcy. Any amount not paid shall bear interest in the amount of six and one-half percent (6½ %) per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

In the event that the State Bar of Texas Client Security Fund shall have made any payment to any Complainant named herein, Respondent shall make the restitution ordered in this Judgment by delivering to the State Bar of Texas, Office of the Chief Disciplinary Counsel, attn: Nancy Ashcraft, 6300 La Calma Drive, Suite 300, Austin, Texas 78752, a cashier's check or money order made payable to the State Bar of Texas in an amount equivalent to the amount paid by the State Bar of Texas Client Security Fund. At the same time Respondent repays the State Bar of Texas Client Security Fund, he shall submit a cashier's check or money order for the remaining restitution owed, made payable to any Complainant paid by the State Bar of Texas Client Security Fund.

**IT IS FURTHER ORDERED** that this Disbarment is to be made a matter of record and appropriately recorded in accordance with the Texas Rules of Disciplinary Procedure.

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SIGNED this 21<sup>st</sup> day of April, 2006.

EVIDENTIARY PANEL  
DISTRICT NO. 06A-A2  
STATE BAR OF TEXAS

BY: 

Michael T. Savage  
Evidentiary Panel Chair

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